

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO.: 0:23-cv-61203-AHS

THE SMILEY COMPANY SPRL,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A,”

Defendants.

RENEWED¹ MOTION FOR CLERK’S ENTRY OF DEFAULT

Plaintiff The Smiley Company SPRL (“Plaintiff”), by and through the undersigned counsel and pursuant to Fed. R. Civ. P. 55(a), hereby requests that the Clerk enter default in this matter against the defaulting Defendants, the Individuals, Partnerships and Unincorporated Associations as identified on Schedule “A” attached hereto (collectively “Defaulting Defendants”), on the grounds that the Defaulting Defendants have failed to appear or otherwise respond to the Complaint within either the time prescribed by the Federal Rules of Civil Procedure or the time set forth by the Court for Defendants to respond. *See* Declaration of Richard Guerra in Support of Plaintiff’s Request for Clerk’s Entry of Default (“Guerra Decl.”) at ¶ 7, filed concurrently herewith.

¹ On September 22, 2023, the Clerk issued a “Non-Entry of Default” because Plaintiff’s Proof of Service [ECF No. 27] did not identify which Defendants were served. On September 25, 2023, Plaintiff filed an Amended Proof of Service [ECF No. 87] identifying all the Defendants served in this case as well as each Defendant’s corresponding email address. *See* Proof of Service at pp. 2-20.

On July 19, 2023, Defendants were served with their respective Summons and copies of the Complaint via e-mail pursuant to the Court's Order authorizing alternate service of process. (Guerra Decl. at ¶ 4; *see also* ECF No. 27, Proof of Service on file with the Court reflecting that Defendants were served). Defendants were also served via publication by posting a true and accurate copy of the Complaint, Issued Summons and all other filings in this case on the website <https://www.dropbox.com/scl/fo/sefaaeo184kg1zl5vndtb/h?dl=0&rlkey=k6ihu9whudejodx2m10ride8d>. *Id.*

Defendants have not filed a response or otherwise appeared in this matter. Guerra Decl., at ¶ 4. The time allowed for the Defaulting Defendants to respond to the Complaint has expired. *Id.* at ¶ 5. Neither Plaintiff nor the Court has granted the Defaulting Defendants an extension of time to respond to the Complaint, nor has any Defaulting Defendant requested same. *Id.* at ¶ 6. The Defaulting Defendants have failed to answer or otherwise respond to the Complaint or serve a copy of any Answer or other response upon Plaintiff's attorneys of record. *Id.* at ¶ 7. Plaintiff is informed and believes that none of the Defaulting Defendants could be considered infants or incompetent persons. *Id.* at ¶ 8. Plaintiff is informed and believes that the Servicemembers Civil Relief Act does not apply. *Id.*

WHEREFORE, Plaintiff hereby requests that default be entered against Defendants, the Individuals, Partnerships and Unincorporated Associations as identified on Schedule "A" attached hereto.

Date: September 25, 2023

Respectfully submitted by,

Richard Guerra

Richard Guerra (Fla. Bar No. 689521)

Attorney Email address: rguerra@brickellip.com

THE BRICKELL IP GROUP, PLLC

1101 Brickell Avenue, South Tower, Suite 800

Miami FL, 33131

Telephone: (305) 728-8831
Attorneys for Plaintiff